

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

**SECURA INSURANCE, A MUTUAL
COMPANY,**

Plaintiff,

vs.

HORIZON PLUMBING, INC., et al.,

Defendants.

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Case No. 08-0921-CV-W-GAF

ORDER

Presently before the Court is Plaintiff Secura Insurance's ("Secura") Motion to Stay. (Doc. #38). This declaratory judgment action arises out of an insurance coverage dispute regarding an incident set out in greater detail in *The Weitz Company, LLC v. MacKenzie House, LLC, et al.*, Case No. 07-0103-CV-W-ODS, now pending before the Honorable Ortrie D. Smith in the United States District Court for the Western District of Missouri ("the underlying lawsuit"). *Id.* The underlying lawsuit will, in part, determine whether Defendant The Weitz Company, LLC ("Weitz") was terminated by Defendant MH Metropolitan, L.L.C. ("MH Metropolitan") for cause from a construction project.¹ *Id.*

Weitz hired Defendant Horizon Plumbing, Inc. ("Horizon"), Secura's insured, as a subcontractor for the construction project. *Id.* Weitz asserts it is an additional insured under the insurance policies issued by Secura to Horizon. *Id.* However, Secura argues Weitz will not qualify as an additional insured if the Horizon subcontract was automatically assigned to MH Metropolitan upon Weitz's termination if Weitz was terminated for cause pursuant to the primary contract

¹The underlying lawsuit is set for trial on January 25, 2010, less than four months from the date of this Order.

between Weitz and MH Metropolitan. *Id.* Accordingly, this Court cannot resolve whether Weitz is entitled to coverage under the insurance policies until there has been a finding in the underlying lawsuit as to whether Weitz was terminated from the project by MH Metropolitan for cause.

In the interest of judicial economy and for good cause shown, Secura's Motion is GRANTED. The above-captioned case is STAYED pending a determination in the underlying lawsuit as to whether Weitz was terminated from the project by MH Metropolitan for cause. Secura is directed to notify the undersigned when such determination is made.

IT IS SO ORDERED.

s/ Gary A. Fenner
Gary A. Fenner, Judge
United States District Court

DATED: October 7, 2009